HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.18750 of 1996

Between:

Sneha Chemicals (P) Ltd.,

Suryapet, rep. by its Managing

Director, O.Narasimha Reddy. …Petitioner.

AND

Commissioner of Family Welfare,

Andhra Pradesh, Hyderabad & others. …Respondents.

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:: O R D E R ::

Counsel for the Petitioner : Sri J. Bharath Reddy

representing Sri S. Srinivasa

Reddy

Counsel for Respondents 1 to 14 : Government Pleader for Medical

Health & Family Welfare.

Counsel for Respondent No.15 : None

15th JUNE 2006

In this petition, the petitioner has prayed for quashing telegrams dated 20th July, 1996 and 30th July, 1996 vide which respondents 2 to 14 were directed not to accept supplies of sterile cotton made after 29-7-1996. It has also prayed for quashing the

consequential action taken by respondent Nos.6 and 10 in returning the invoices sent by the petitioner on 25-7-1996 and 5-8-1996. The other prayer made by the petitioner is to direct respondent Nos.2 to 14 to receive sterile cotton lying with the transport companies.

A perusal of the record shows that WPMP.No.23152 of 1996 filed by the petitioner for grant of interim relief was disposed of by a coordinate Bench on 25-9-1996 by recording the following order:

> " Pursuant to an order dated 20-7-1996 issued by the A.P. Small Scale Industrial Development Corporation – Respondent No.15 effected supplies of the hospitable consumables viz., sterile cotton within the specified time for supply thereof. The supply order is to supply goods on or before 19-8-1996. The first respondent by telegrams dated 20-7-1996 and 30-7-1996 directed respondents 2 to 14 not to accept the delivery of goods. Respondent No.15 by its confirmatory telegram dated 6-8-1996, however, directed to issue necessary instructions to Respondents 2 to 14 to accept the goods supplied by the petitioner's units through A.P. Small Scale Industrial Development Corporation. The goods are now lying with transport companies and it is in my view appropriate to direct suspension of the orders communicated in the telegrams of the Respondent No.1 dated 20-7-1996 and 30-7-1996 as the supplies prima facie have been made by the petitioner in accordance with the supply order made on behalf of Respondents 1 to 14 by their agent, respondent No.15 who has been made the sole selling agent by G.O.Ms.No.240, dated 22-5-1989.
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> The learned Government Pleader for Medical and Health had taken notice on behalf of Respondent No.1 in the above writ petition on 6-9-1996 and sought time to seek instructions. The matter was thereafter posted to 10-9-1996 and has therefore come up before the Court today. The learned Government Pleader, however, has no counter to file in the matter and has represented before the Court that he has been given oral instructions in the matter and the same may be considered. The instructions given by Respondent No.1 to the learned Government Pleader are to the effect that (quote) " Respondent No.1 had arranged a programme of medical check up for school going children from 22-7-1996 to 27-7-1996 and it was further extended to 29-7-1996. Since the programme was fixed by Respondent No.1 and it was expired by 29-7-1996, the question of receiving goods will not arise". (unquote)
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> It was contended on behalf of Respondent No.1 that the order was placed on 11-7-1996 to Respondent No.15 for supply within seven days and therefore the need for the said consumables is no longer subsisting and as the supply has been made belatedly, it is submitted that telegrams have been issued by Respondent No.1 to the Respondent Nos.2 to 14 not to take delivery. Respondent No.15 seeks to sustain the impugned orders on the

above grounds.

As already noted above, the orders were placed by Respondent Nos.1 to 14 on Respondent No.15 as per the Scheme framed under G.Os. referred to above who in turn has placed the order on the petitioner. A perusal of the supply order shows that the supply was to be made on or before 19-8-1996 and not before 29-7-1996 as contended by Respondent No.1. The petitioner made the supplies within time. The petitioner cannot therefore be found fault for complying with the supply order as directed by Respondent No.15 and within the time specified therein. Any grievance respondent No.1 may have can be against Respondent No.15 with regard to the time for making the said supply and not against the petitioner. It has never been informed to petitioner that supplies are to be made before 29-7-1996. In fact the supply order shows that the supplies had to be made on or before 19-8-1996 and the petitioner has effected supplies within time. The goods are now lying with the transporters having been wrongly refused delivery by respondents 2 to 14 pursuant to the impugned orders passed by Respondent No.15.

A prima facie case has been made out by the petitioner and the balance of convenience also is in favour of the petitioner and accordingly, the impugned order passed by Respondent No.1 vide Telegrams dated 20-7-1996 and 30-7-1996 be and hereby is suspended and the above W.P.M.P.No.23152 of 1996 is ordered accordingly."

Yesterday, the case was adjourned to enable the learned Government Pleader to ascertain whether in pursuance of interim order dated 25-9-1996 the respondents had taken supply of goods and whether payment had been made to the petitioner.

Learned Government Pleader for Medical and Health says that the entire quantity of goods supplied by the petitioner had been taken by the respondents and payment has also been made.

In view of the statement made by the learned Government Pleader, nothing survives in the writ petition and the same is liable to be disposed of as infructuous. Ordered accordingly.

G.S. SINGHVI, C.J.

15th June, 2006.

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